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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/083,488	02/27/2002	Tetsushi Kobayashi	1341.1121	6513

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EXAMINER

ALLEN, WILLIAM J

ART UNIT PAPER NUMBER

3625

DATE MAILED: 07/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/083,488	<b>Applicant(s)</b> KOBAYASHI ET AL.	
	<b>Examiner</b> William J. Allen	<b>Art Unit</b> 3625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 February 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____  |

## **DETAILED ACTION**

### ***Priority***

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Specification***

2. The disclosure is objected to because of the following informalities: page 2, line 20 reads "network 200" when referring to Figure 28 and should read "network 20"; page 17, line 19 numbers "store servers" as 330<sub>1</sub> and should be numbered 300<sub>1</sub>; page 39, line 19 numbers "store site" as 310<sub>1</sub> and should be numbered 310<sub>1</sub>. Page 15, lines 14-16 use inconsistent terminology; "product catalog server" 300<sub>1</sub> should read "store server" 300<sub>1</sub>. Page 38, line 24 describes an "input device" present in Figure 27, no. 1620 but does not designate the feature in the text as 1620.

Appropriate correction is required.

3. Claims 3 and 5 objected to because of the following informalities: Claim 3, line 5 reads "introducing to the another store" and would better read "introduced to another store". Also, the word "another" in line 2 of claim 5 should be removed.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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5. Claims 9 and 10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims are directed to both an apparatus and a method for using the apparatus. MPEP 2173.05.

***Claim Rejections - 35 USC § 101***

6. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

7. Claims 9 and 10 are rejected under 35 U.S.C. 101 because the claim is directed to a computer program per se. The program is not embodied in any computer readable medium. MPEP 2106.

***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

9. The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical

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Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000.

Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

10. Claims 1, 3, 5, 6, 7, 8, 9, and 10 are rejected under 35 U.S.C. 102(e) as being anticipated by Pugliese III et al. Pertaining to claims 1, 3, 6, 9, and 10, Pugliese et al. disclose a system, method, and computer program for enabling the efficient marketing and sale of goods and services via the Internet [0017, lines 1-5] for a number of products and multiple merchants. In the system, either the original merchant or the merchant the customer is referred to is selected to fill the order. Regarding claim 5, a system of referral is then further disclosed in the invention for products not available from the originally selected merchant [0017, lines 12-16]. In the event that the original merchant refers a new merchant, a commission is credited to the original merchant from the newly referred merchant [0017, lines 20-22]. Related to claims 7 and 8, Pugliese also discloses a means of managing shipping information for a customer [0015 lines 1-3] as well as a means to complete the transaction and handle order fulfillment. Order fulfillment includes order processing as well as the shipping and handling of the product (i.e. carrying out a shipment process) [0158 lines 1-4].

11. It should be noted that, according to Webster's II New Riverside Dictionary, the term available is defined as the capability of being obtained, or, as the accessibility for use. Terms such as "non-sellable" (as in Claim 1, line 6) and "stock shortage" (as in Claim 3, line 3) fall under the definition of availability. Any attempt to monitor the availability of a product would then include monitoring the current stock of a product as well as if a product is sellable or non-sellable.

***Claim Rejections - 35 USC § 103***

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claims 2 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pugliese et al. in view of Hill. Pugliese et al. disclose the invention as set forth in paragraph 11 of this action. Pugliese et al. also disclose a means of updating search information for users through the addition of user-selected parameters. The invention lacks, however, the aspect of automation as well as updating catalog/inventory information based on those operator instructions. Hill discloses a system that automatically updates catalog information based on an operator instruction. It should be noted that the term "purchaser trigger" is equivalent to "operator instruction". The invention of Hill provides the customer with an instantaneous distribution of all updated catalog data (col. 2, lines 3-5). Once a user has selected a catalog, the system logs onto the vendor's computer. The system then checks if any data needs to be updated (col. 2, lines 9-14). It is reasonable to point out that the selection of a catalog constitutes an operator instruction, thus a purchaser trigger, and results in an automated updating process of catalog information. It would have been obvious to someone of ordinary skill in the art to design the system of Pugliese et al. with such a feature as in Hill because the accuracy of the data sent to the customer would no longer depend the distribution of updated disks (Hill, col. 1, lines 32-39) thus, making it easier for customers to obtain accurate information and suppliers to maintain it.

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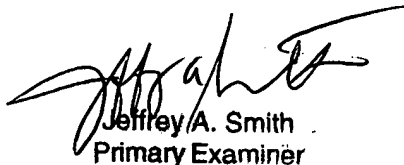
**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William J. Allen whose telephone number is (571) 272-1443. The examiner can normally be reached on 7:30 AM to 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn W. Coggins can be reached on (571)272-7159. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

WJA

  
Jeffrey A. Smith  
Primary Examiner